

SDMS# 31316

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 9

In the Matter of :

PORT OF LOS ANGELES PROPERTY  
800 Southerland Avenue  
Wilmington, California

PORT OF LOS ANGELES,  
ARNE STORLI

Respondents

Proceeding under Section 106 of the  
Comprehensive Environmental Response,  
Compensation and Liability Act of 1980,  
as amended by the Superfund Amendments  
and Reauthorization Act of 1986,  
(42 U.S.C. §9606)

Order No. 89-11

I. Jurisdiction

This Order is issued to the Port of Los Angeles, and Arne Storli ("Respondents") pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 et seq., ("CERCLA"), by authority delegated to the Administrator of the United States Environmental Protection Agency (EPA), and redelegated to the EPA Regions.

The Director of the Hazardous Waste Management Division, EPA Region 9, has determined that there may be an imminent and substantial endangerment to the public health, welfare and the environment because of the release and/or threatened release of

1 hazardous substances from the Port of Los Angeles Property, 800  
2 Southerland Avenue, Wilmington, California ("facility" or  
3 "site").

4 The EPA has designated an On-Scene Coordinator ("OSC") for  
5 the site, pursuant to 40 C.F.R. Part 300.

## 6 II. Findings of Fact

### 7 A. BACKGROUND

8 1. The Port of Los Angeles Property is an undeveloped par-  
9 cel of land located at 800 Southerland Avenue, Wilmington, Los  
10 Angeles County, California. The site is approximately 100 feet  
11 by 200 feet in size and is bordered by the Dominguez Channel on  
12 one side, Southerland Avenue on the opposite side and by two  
13 vacant lots on the remaining two sides. Respondent Storli has  
14 used the site for at least one year without permission of the  
15 owner, respondent Port of Los Angeles, to store various con-  
16 tainers of hazardous substances which Mr. Storli purchased from  
17 the Defense Reutilization and Marketing Office ("DRMO"). The  
18 containers, many of which have observable leaks, are stacked on  
19 pallets without shelter and contain flammable, corrosive, and  
20 toxic chemicals including chlorinated solvents, paints, and var-  
21 nishes.

22 2. Respondent Port of Los Angeles is the current owner of  
23 the property. Respondent Storli is the owner of all of the con-  
24 tainers illegally stored at the site.

25 3. This rectangular site is located in an industrial area  
26 of Wilmington, California. Property in the vicinity of the site  
27 is used largely for industrial businesses and salvage yards.  
28 Just to the south of the property runs the Anaheim Street over-

1 pass, a major thoroughfare in the area. The property is bordered  
2 on the west side by the Dominguez Channel, a body of water which  
3 discharges into Los Angeles Harbor.

4 4. In the Fall of 1988, respondent Port of Los Angeles  
5 notified the Los Angeles City Industrial Waste Commission  
6 ("LAIWC") and the Los Angeles County Department of Health Serv-  
7 ices ("LACDHS") about Respondent Storli's illegal storage at the  
8 site. In November 1988 the LACDHS issued a clean-up order to Mr.  
9 Storli requiring the removal and legal disposal of hazardous sub-  
10 stances at the site.

11 5. On May 16, 1989 the Port of Los Angeles notified EPA  
12 that hundreds of containers of hazardous substances continued to  
13 be stored illegally at the site by respondent Storli. Prelimi-  
14 nary assessments of the site were conducted by EPA's Technical  
15 Assistance Team ("TAT") on May 18, 1989 and by EPA on May 25,  
16 1989. TAT confirmed the presence of hazardous substances at the  
17 site and documented the potential endangerment to human health  
18 and the environment due to the release and threatened release of  
19 hazardous substances into the environment. The containers stored  
20 at the site, all of which were purchased from DRMO, bear markings  
21 per Department of Defense specifications which state that the  
22 barrels contain flammable, corrosive and toxic materials.  
23 Respondents were given oral notice of CERCLA liability on May 25,  
24 1989 by the EPA On-Scene-Coordinator. As a result of TAT and EPA  
25 findings, and as a temporary mitigation action, respondent Port  
26 of Los Angeles erected a fence around the site, posted signs and  
27 agreed to monitor the site.

1    B. ENDANGERMENT

2           6. The presence of flammable, corrosive and toxic materials  
3 at the site poses a serious threat of release of hazardous sub-  
4 stances into the environment. The method of storage of the haz-  
5 ardous and highly combustible substances gives rise to a serious  
6 threat of fire or explosion, thereby causing the release of toxic  
7 smoke and fumes into the air. The approximately 1000 containers  
8 at the site are stacked on pallets three and four high and many  
9 have observable leaks. In the event of an explosion or fire, ap-  
10 plication of fire-fighting water could also result in a release  
11 of toxic substances into the Dominguez Channel and the nearby  
12 tidal estuary.

13          7. Liquid materials stored at the site, including certain  
14 types of paints, primer coatings, varnishes, lacquers,  
15 chlorinated solvents and cleaning compounds are "hazardous sub-  
16 stances" as defined in section 101(14) of CERCLA. Under CERCLA  
17 section 101(14), as cross-referenced to 42 U.S.C. section 6901  
18 and 40 C.F.R. section 261.21(a)(1), a liquid material is a  
19 "hazardous substance" if it has a flash point of less than 140  
20 degrees fahrenheit. All of the above listed materials have flash  
21 points below 140 degrees fahrenheit.

22          8. The site poses a threat to workers at the surrounding  
23 industrial facilities and salvage yards due to potential exposure  
24 to airborne toxic fumes which would result from a fire or explo-  
25 sion. Persons travelling in vehicles nearby on Southerland  
26 Avenue or the Anaheim Overpass are similarly subjected to the  
27 threat of exposure to airborne toxic fumes. The site also poses  
28 a threat of release of hazardous substances into the Dominguez

1 Channel due to drainage of fire-fighting water which would be ap-  
2 plied in the event of a fire or explosion.

### 4 III. Conclusions of Law

6 A. Respondents are "persons" as defined in Section 101(21)  
7 of CERCLA, 42 U.S.C. §9601(21).

8 B. The property located at 800 Southerland Avenue, Wil-  
9 mington, California is a "facility" as defined in Section 101(9)  
10 of CERCLA, 42 U.S.C. §9601(9).

11 C. The chlorinated solvents, paints, coatings and varnishes  
12 stored at the site are "hazardous substances" as defined in Sec-  
13 tion 101(14) of CERCLA, 42 U.S.C. §9601(14).

14 D. The presence of hazardous substances on the site and the  
15 potential for those substances to contaminate the soil, the  
16 nearby waterways and estuaries, and to combust and contaminate  
17 the air constitutes a "release" or "threatened release" of haz-  
18 ardous substances into the environment as defined in Section  
19 101(22) of CERCLA, 42 U.S.C. §9601(22).

20 E. Respondents are "responsible parties" as defined in Sec-  
21 tion 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).

### 23 IV. Determinations

24 Based on the Findings of Fact and Conclusions of Law, the  
25 Director, Hazardous Waste Management Division, EPA Region IX, has  
26 made the following determinations:

27 A. The release or threatened release of hazardous sub-  
28 stances or pollutants or contaminants from the site may present

1 an imminent and substantial endangerment to the public health,  
2 welfare, or the environment.

3 B. In order to prevent or mitigate immediate and sig-  
4 nificant risk of harm to human health and the environment, it is  
5 necessary that actions be taken immediately to contain and  
6 prevent the release and potential release of hazardous sub-  
7 stances, pollutants or contaminants from the site.

8 C. The removal measures required by this Order are consis-  
9 tent with the National Contingency Plan, 40 Code of Federal  
10 Regulations, Part 300.

#### 11 V. Work To Be Performed

12 Based upon the Findings of Fact, Conclusions of Law and  
13 Determinations, EPA hereby Orders the Respondents to implement  
14 the following measures under the direction of EPA's On-Scene  
15 Coordinator.

16 A. Within forty-eight (48) hours of receipt of this Order,  
17 Respondents shall install and maintain a fence around the site,  
18 post warning signs and shall establish site security and prevent  
19 unauthorized access.

20 B. Within five (5) calendar days of receipt of this Order,  
21 Respondents shall submit a Workplan and schedule of work to EPA  
22 which must address the following issues to reduce the threat of a  
23 release from the site:

- 24 1.) segregation of incompatible wastes;
- 25 2.) recontainerization of leaking containers;
- 26 3.) removal of debris;
- 27 4.) provision of adequate aisle space; and
- 28 5.) reduction of height of stacked containers.

1 C. Upon approval by EPA, Respondents shall implement the  
2 Workplan according to the schedule approved by EPA.

3 D. Within thirty (30) calendar days of receipt of this Or-  
4 der, Respondents shall submit to EPA a Clean-up Plan and schedule  
5 for disposal/reuse/recycling of the hazardous substances at the  
6 site. Upon approval by EPA, Respondents shall implement the  
7 Clean-up Plan according to the schedule approved by EPA.

8 E. Within five (5) days of initiating clean-up activities  
9 at the site, Respondents shall submit to EPA a Post Clean-up Sam-  
10 pling Plan and schedule of sampling. Upon approval by EPA,  
11 Respondents shall implement the Post Clean-up Sampling plan ac-  
12 cording to the schedule approved by EPA.

13 F. Upon completion of clean-up, Respondents shall submit to  
14 EPA an Activity Report which shall specify removal actions taken  
15 to comply with this Order.

16 G. Respondents shall commence any and all work under this  
17 Order only after approval of Workplans by the EPA OSC. All  
18 Workplans shall be in accordance with appropriate EPA guidances  
19 and those directed for use by the OSC. All Workplans shall in-  
20 clude Health and Safety Plans that are consistent with EPA  
21 Guidance, 29 C.F.R. 1910, and all applicable State and local  
22 laws. All such Health and Safety Plans are to be followed by all  
23 personnel in the vicinity of site work. All sampling and  
24 analysis shall be consistent with the "Removal Program Quality  
25 Assurance/Quality Control Interim Guidance: Sampling, QA/QC Plan,  
26 and Data Validation", EPA OSWER Directive 9360.4-01 dated  
27 February 2, 1989.

28

1                                    VI. Compliance With Other Laws

2            Respondents shall comply with all federal, state and local  
3 laws and regulations in carrying out the terms of this Order. All  
4 hazardous substances removed from the facility must be handled in  
5 accordance with the Resource Conservation and Recovery Act of  
6 1976, 42 U.S.C. § 6921, et seq., the regulations promulgated un-  
7 der that Act, and Section 121(d)(3) of CERCLA, 42 U.S.C. Section  
8 9621(d)(3).

9                                    VII. On-Scene Coordinator

10           EPA has appointed an On-Scene Coordinator (OSC) for the Site  
11 who has the authority vested in the On-Scene Coordinator by 40  
12 C.F.R. Part 300, et seq. The On-Scene Coordinator for the site  
13 for the purposes of this Order is:

14           Robert Mandel  
15           Field Operations Branch, T-4-9  
16           United States Environmental Protection Agency, Region 9  
17           215 Fremont Street  
18           San Francisco, California 94105  
19           (415) 974-8927

18                                    VIII. Submittals

19           All submittals and notifications to EPA required by this Or-  
20 der or any approved proposal under this Order shall be made to  
21 the On-Scene-Coordinator, Robert Mandel, at the above listed ad-  
22 dress.

23           All approvals and decisions of EPA made regarding the sub-  
24 mittals and modifications shall be communicated to Respondents by  
25 the Director, Hazardous Waste Management Division or his  
26 designee. No informal advice, guidance, suggestions, or comments  
27 by EPA regarding reports, plans, specifications, schedules, or  
28 any other matter will relieve Respondents of their obligation to



1 obtain formal approvals as required by this Order.

2  
3 IX. Access

4 Respondents shall provide EPA employees and other represen-  
5 tatives with complete access to the facility at all times. Noth-  
6 ing in this Order limits any access rights that EPA or other  
7 agencies may have pursuant to law.

8  
9 X. Endangerment During Implementation

10 The Director, Hazardous Waste Management Division, EPA  
11 Region 9, may determine that acts or circumstances (whether re-  
12 lated to or unrelated to this Order) may endanger human health,  
13 welfare or the environment and may order the Respondents to stop  
14 further implementation of this Order until the endangerment is  
15 abated.

16 XI. Government Not Liable

17 The United States Government and its employees and other  
18 representatives shall not be liable for any injuries or damages  
19 to persons or property resulting from the acts or omissions of  
20 Respondents, their employees or other representatives caused by  
21 carrying out this Order. For the purposes of this Order, the  
22 United States Government is not a party to any contract with the  
23 Respondents.

24 XII. Noncompliance

25 A. A willful violation or failure or refusal to comply  
26 with this Order may subject Respondents to a civil penalty of up  
27 to \$25,000 per day in which the violation occurs or failure to  
28 comply continues, pursuant to the provisions of Section 106(b)(1)

1 of CERCLA, 42 U.S.C. §9606(b)(1). Failure to comply with this  
2 Order without sufficient cause may also subject Respondents to  
3 punitive damages of up to three times the total costs incurred by  
4 the United States for site response pursuant to Section 107(c)(3)  
5 of CERCLA, 42 U.S.C. § 9607(c)(3).

6 B. EPA may take over the response action at any time if  
7 EPA determines that Respondents are not taking appropriate ac-  
8 tion. EPA may order additional actions it deems necessary to  
9 protect public health, welfare, or the environment.

#### 10 11 XIII. Opportunity to Confer

12 Respondents may request a conference with the Director, Haz-  
13 arduous Waste Management Division, EPA Region 9, or his staff to  
14 discuss the provisions of this Order. At any conference held  
15 pursuant to Respondents' request, Respondents may appear in per-  
16 son or by counsel or other representatives for the purpose of  
17 presenting any objections, defenses or contentions which Respon-  
18 dents may have regarding this Order. If Respondents desire such  
19 a conference, Respondents must make a request orally within 24  
20 hours of receipt of this Order, and confirm the request in writ-  
21 ing immediately. A conference does not alter the effective date  
22 of the Order.

#### 23 XIV. Parties Bound

24 This Order shall apply to and is binding upon the Respondents,  
25 their officers, directors, agents, employees, contractors, suc-  
26 cessors, and assigns.

1                   XV. Notice of Intent to Comply

2           Within 24 hours of receipt of this Order, Respondents shall  
3 orally inform EPA of their intent to comply with the terms of  
4 this Order. The oral notice shall be confirmed within two days  
5 of receipt of this Order by written notice to the Director, Haz-  
6 ardous Waste Management Division. Failure to timely notify EPA  
7 of the Respondents' intent to fully comply will be construed by  
8 EPA as a refusal to comply.

9  
10                   XVI. Notice to State

11           Notice of the issuance of this Order has been given to the  
12 State of California. EPA will consult with the California  
13 Department of Health Services, LAIWC, and LACDHS as appropriate.

14  
15                   XVII. Effective Date

16           Notwithstanding any conferences requested pursuant to the  
17 provisions of this Order, this Order is effective upon receipt by  
18 Respondents.

19  
20 IT IS SO ORDERED on this 16th day of June, 1989.

21 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

22  
23 by:

24           for Jeff Zelikson  
25           Director, Hazardous Waste Management Division  
26           EPA, Region 9

1       Contacts:

2       Robert Mandel  
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